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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,448	07/26/2001	Edward Covannon	82990F-P	7353

7590

07/13/2004

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EXAMINER

HOTALING, JOHN M

ART UNIT PAPER NUMBER

3713

DATE MAILED: 07/13/2004

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/915,448
Filing Date: July 26, 2001
Appellant(s): COVANNON ET AL.

Frank Pincelli
For Appellant

EXAMINER'S ANSWER

MAILED
JUL 13 2004
GROUP 3700

This is in response to the appeal brief filed 5/10/04.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The rejection of claims 47-50, 52-53, and 55-72 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

The rejection of claim 51 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

The rejection of claims 54 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

6,401,085

GERSHMAN et al

6-2002

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 47-72 are rejected under 35 U.S.C. 102(e) as being anticipated by Gershman et al US Patent 6,401,085. The previous rejections are maintained and incorporated herein. Gershman is a mobile communication system that facilitates web-based information system with a hand held wireless retrieval and display system (one embodiment is a personal digital assistant (PDA)) with internet capability and a built in or attached bar code reader where each member owns and maintains his or her own profile. See the abstract and columns 3, and 37-39. Columns 4 and 5 disclose that the system may be implemented on different platforms and operating systems. Columns 13-15 disclose that a restriction criterion is settable by a user according to the user's

preference. Column 33 discloses that a users request may be returned in the format of a URL. Column 41 along with figure 13 discloses the formation of personal profiles that contain a username, password, a unique identifier, profiles, and profile restrictions. Column 48 discloses maintaining user profiles with a combination of user specified information and system learned and extrapolated data from the user information and activities. Column 48 also discloses that the system can attempt to determine by observation and cues from the environment, where the users are or are likely to be located. Column 60 discloses that the system can incorporate GPS, bio-sensors and environmental sensors into the device for a plurality of additional functions. With respect to the claim limitations that the home computer manages a profile the instant application teaches on pages 8 and 9 interconnectivity between computer systems is well known and therefore as long as there is a computer that manages and stores the user profiles and is accessible to the users of the system the requirement that it be on a home computer is overcome and the home computer can be considered to be a central server. The agent or software program of Gershman does indeed control certain aspects of the device such as which information to display to the user based on a user profile or request by the user and the device is more than capable of being used by a parent with a child. Figure 1a discloses where the user with the device communicates with a plurality of devices. Gershman discloses in column 48 also discloses that the system can attempt to determine by observation and cues from the environment, where the users are or are likely to be located. This is a means for obtaining information related to the environment. Column 38:50-39:25 disclose that intelligent agents use a

user profile to provide advice, and learn about the user, improving the services they deliver. Column 48 lines 13-55 discloses the user profile is maintained and updated by the user and the intelligent agent coordinator which uses learned and extrapolated data from each users information and activities. Column 60 discloses that the system can incorporate GPS, bio-sensors and environmental sensors into the device for a plurality of additional functions. Column 61:67-62:2 discloses that by using advanced profiling and filtering, the intelligent agents learn about the user, improving the services they deliver. These are aspects of the devices environment and use and personnel profile.

(11) *Response to Argument*

The main thrust of appellant's argument is that the reference that the examiner used does not provide "self generating" interaction with one or more users. The Appellant goes through a lengthy description of how the reference only discloses prompted responses by the user and that there is no need to enter information by the user for the device to be interactive. Gershman discloses a plurality of embodiments where and how the mobile communication system can be used. One embodiment of the system is a Personal Digital Assistant (PDA). Although some of the embodiments of Gershman are prompted by input from the user others are not. For example, column 61 discloses that "In certain circumstances, data may be automatically sent to select services based on the type and value of the data obtained by the Electronic Valet 2602. For example, when an integrated bio-sensor obtains certain predefined data values, an appropriate emergency care provider would be automatically contacted. In addition, the

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data obtained from sensors, GPS, camera, microphones, and other user inputs 2600, may also be combined before being sent to an appropriate service provider. For example, in the example above, GPS position data may be sent with the bio-sensor data to the emergency care provider. The emergency care provider would then know the patient's biological data and the location of the patient. Appropriate service could then be provided."

With respect to claim 51 the applicants argues that there is nothing in Gershman that teaches or suggests that two interactive devices are placed together for providing information to the interactive device. The examiner notes that this claim limitation is not in the claims. The claim merely discloses a second device that provides information about the second device to said interactive device. As previously presented column 60 discloses that the system can incorporate GPS, bio-sensors and environmental sensors into the device for a plurality of additional functions. Figure 1a discloses where the user with the device communicates with a plurality of devices. Furthermore column 43 line 61 through column 44 line 15 discloses that the system may get information from a plurality of sources within an environment such as a gas meter or a kitchen appliance, or vehicles.

With respect to claim 54 the applicants argues that there is nothing in Gershman that teaches or suggests the limitation of providing means for obtaining the identity of said one or more users in recognition of a physical characteristic. Please see the above rejection and argument with respect to bio-sensors.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

John M Hotaling II
July 12, 2004

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